

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CYNTHIA MARIE LONG,  
(individually, and as  
Personal Representative of  
the Estate of Dustan  
Dominic Long),

Plaintiff(s),

vs.

CITY AND COUNTY OF  
HONOLULU; OFFICER PATRICK  
A. STERLING, et al.,

Defendant(s).

COPY

CIVIL NO.  
02-00271 SPK-KSC

DEPOSITION OF LEE D. DONOHUE

Taken on behalf of the Plaintiffs Cynthia Marie Long,  
individually, and as Personal Representative of the  
Estate of Dustan Dominic Long, pursuant to Notice, on  
Tuesday, April 15, 2005, commencing at 10:00 a.m., at  
the law office of Jack Schweigert, 550 Halekauwila,  
Suite 309, Honolulu, Hawaii 96813.

Exhibit #2

1 police officer?

2 A. 40 years.

3 Q. I want to, first of all, thank you for  
4 coming down today. I know you are retired now.

5 A. Right.

6 Q. And it is tax day today. So everybody has  
7 other commitments, so I appreciate it.

8 When were you retired? When was the time  
9 you were a police officer, from when to when?

10 A. I joined the Honolulu Police Department on  
11 July 1st, 1964, and I retired June 30th, 2004.

12 Q. So does that mean that on June the 3rd, 2001  
13 you would be the police chief for the City and County  
14 of Honolulu?

15 A. Yes.

16 Q. To come down today, I have been trying,  
17 Chief, to make sure I've got all the records dealing  
18 with the Internal Affairs investigation. You are aware  
19 there was an Internal Affairs investigation for an  
20 Officer Sterling for a homicide he participated in on  
21 June 3rd, 2001; you are aware there was an IA  
22 investigation?

23 A. Yes.

24 Q. And are you aware of getting documents for  
25 your participation in that IA investigation?

1 Q. He says he can see the hole but he is saying  
2 somehow Dustan Long went out of his sight at the time  
3 Sterling sees action that he needs to take a shot.

4 If you would have known that fact, would it  
5 have raised a question for follow-up?

6 A. Probably would.

7 Q. What would be your concern?

8 A. Why didn't you see the same thing Sterling  
9 saw.

10 Q. That's right. Is there a code of silence in  
11 police officers?

12 A. Oh, there is.

13 Q. What is that about?

14 A. It is about -- I think there is a code of  
15 silence in many professions.

16 Q. That disclaimer given. You've covered all  
17 fields. What is the code of silence in the police  
18 department?

19 A: Code of silence is that you only report on  
20 what you see, what you know. Normally -- although it  
21 is not condoned within our ethics, if you see any  
22 wrongdoing by an officer, you are supposed to report it  
23 and address it.

24 Q. But the code of silence sort of steps in  
25 there and they tend not to do that?

1 A. There are cases that has proven to be true,  
2 yes.

3 Q. So if this was a situation where he says he  
4 didn't see it but he does see the bullet hole that was  
5 made to give you reason to believe he did see it, that  
6 would have been something that you would have followed  
7 up with questions?

8 MR. TONAKI: Let me object as argumentative,  
9 incomplete hypothetical, lack of foundation, calls for  
10 speculation.

11 You may answer if you can.

12 A. It would have piqued my interest, yes.

13 Q. BY MR. SCHWEIGERT: Would it have also  
14 piqued your interest that, first of all, all the  
15 officers say that -- many of the officers, I can't say  
16 all of them. Those in the inner perimeter, they say  
17 that they see Dustan Long walking around at some time  
18 in the evening with the rifle, but they didn't shoot  
19 him at that point in time because they said just  
20 walking around on the property with a rifle was not in  
21 and of itself imminent danger to a person or property.  
22 Would you agree with that assessment?

23 A. Yes.

24 Q. It is only if he is firing at people that  
25 would be a problem?



1 do that in just a second.

2 If you would look, Chief, on page 32, you  
3 see mentioned throughout small caliber gunshot, sound  
4 of a small caliber gunshot. That's allegedly Dustan  
5 Long taking a shot. Okay?

6 A. Uh-huh.

7 Q. I've already told you there was no shell  
8 casing, and that's admitted, there will be no shell  
9 casing found in this area. An additional fact, a lot  
10 of private people didn't hear that small caliber gun  
11 fire go off. You don't see any mention of private  
12 citizens, independent witnesses, people other than  
13 police officers saying that -- or being interviewed as  
14 to whether they heard the sound of a small caliber  
15 gunshot.

16 Why did the absence of other -- I mean you  
17 understand police officers will cover for police  
18 officers. Or am I -- my telling you that, is that the  
19 first you've ever heard of that principle?

20 A. No.

21 Q. It is a given fact that on occasion -- it is  
22 not wanted but it does happen -- that police officers  
23 cover for police officers?

24 A. And that's why Internal Affairs is called  
25 in.

STATE OF HAWAII

ss

I, MARJANN SHAWLER, a Notary Public in and for the State of Hawaii, do  
hereby certify:

That prior to being examined, the witness herein, Lee D. Donohue,  
was sworn by me to testify to the truth, the whole truth and nothing but the truth;

That the foregoing deposition was taken down by me in machine shorthand at the  
time and place herein stated, and was thereafter reduced to typewriting under my  
supervisions;

That the foregoing is a full, true and correct transcript, of said deposition;

That after said deposition was reduced to typewriting, the witness, in accordance  
with Rule 30(e) of the Hawaii Rules of Civil Procedure, was duly informed of the right to  
make such corrections as might be necessary to render the same true and correct.

I further certify that I am not of counsel or attorney for any of the parties to this  
case, nor in any way interested in the out come hereof, and that I am not related to any of the  
parties hereto.

Witness my hand and seal this 15<sup>th</sup> day of April, 2005.

Marjann Shawler

Notary Public, State of Hawaii

My Commission Expires: November 23, 2008